RECORD, CASE No. 12,788.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1891.

TERM No., 21.

B. J. SAGE, PLAINTIFF IN ERROR,

vs.

THE BOARD OF LIQUIDATION OF THE STATE OF LOUISIANA.

IN ERROR TO THE SUPREME COURT OF THE STATE OF LOUISIANA.

FILED OCTOBER 13, 1887.

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INDEX.

	Original.	Print.
Caption	*a*	1
Transcript from civil district court for the parish of Orleans	*b*	1
Petition	1	1
Schedule	4	3
Answer	5	4
Interrogatories to James C. Wise *et al.*	6	4
Cross-interrogatories	7	5
Testimony of Monford Wells	8	5
James C. Wise	13	7
Interrogatories to E. W. Halsey *et al.*	15	8
Testimony of Edmund W. Halsey	18	9
Certificates of Auditor Jumel	24	12
Testimony taken in open court	26	13
Testimony of B. J. Sage	27	13
Submission	28*a*	14
Notice of trial	28	15
Sheriff's return	29	15
Submission	29	15

JUDD & DETWEILER, PRINTERS, WASHINGTON, D. C., NOVEMBER 11, 1891.

	Original.	Print.
Submission	30	15
Judgment	30	16
Clerk's certificate	31	16
Opinion	32	16
Petition for rehearing	38	19
Order refusing rehearing	38	19
Opinion on application for rehearing	39	20
Petition for writ of error	40	20
Bond	42	21
Amended bond	44*a*	22
Stipulation as to copy of bond sued on	45	23
Copy of bond sued on	45	24
Clerk's certificate	48	25
Chief justice's certificate	49	25
Citation	50	26
Writ of error	52	27

a No. 9426.

STATE OF LOUISIANA:

Supreme Court of the State of Louisiana.

B. J. SAGE
vs.
BOARD OF LIQUIDATION.

Transcript of extract from record, returnable to the Supreme Court of the United States on the second Monday of October, 1887.

b No. 9426.

(Copy of title page.)

STATE OF LOUISIANA:

Civil District Court for the Parish of Orleans.

B. J. SAGE
vs.
BOARD OF LIQUIDATION. } No. 2919.

Appearances: W. F. & D. C. Mellen, att'ys for appellant; J. C. Egan, Esq., attorney for appellee.

Transcript of appeal to the supreme court of the State of Louisiana, returnable on the third Monday of March, 1885.

[Endorsed:] Supreme court of Louisiana. Filed March 16, 1885. (Signed) George W. Dupre, clerk.

1 STATE OF LOUISIANA:

Civil District Court for the Parish of Orleans.

B. J. SAGE
vs.
BOARD OF LIQUIDATION. } No. 2919. Div. E.

Petition. Filed April 6th, 1881.

To the honorable the judges of the civil district court for the parish of Orleans:

The petition of Bernard J. Sage, of this city, respectfully shows—

That he holds as the assignee and agent of Mrs. J. D. Wells and other parties five certain bonds of one thousand dollars each, with coupons attached, dated 1st of August, 1864, payable twenty-five years after date, with six per cent. interest, payable semi-annually, which bonds were made by the State of Louisiana at said above date under the law of February 8th, 1864, and other laws, and which are properly endorsed and assigned to your petitioner or the

holders thereof, the amount of said bonds, with interest, being at present twelve thousand three hundred and fifty dollars. Said bonds are numbered from one to five, according to a schedule annexed, and the first is filed herewith for reference.

That the said bonds are legal and valid obligations of the State of Louisiana; were issued in strict conformity to law and not in violation of the constitution of the State or of the United
2 States, and were issued and transferred for a valuable consideration; and they are entitled to be funded as such valid obligations.

That your petitioner desires and is entitled to have them funded under and according to act No. 3 of 1874, known as the funding act, and to have them exchanged for the consolidated bonds of the State, as provided for in said act, at the rate of sixty per cent., and that he has presented the said bonds for such funding and exchange to the board of liquidators, making amicable demand of the said board therefor, and that the said board have refused to do the said funding and to make the said exchange.

That these bonds were issued by the regular State government of Louisiana, in the due course of administration and performance of governmental business, in paying for property needed to facilitate and aid the civil operations; that the transaction had no connection whatever with contemporaneous military affairs and was in no wise touched or tainted with any Confederate cause, consideration, or motive; that the said bonds are proper in form and issued by the proper officers according to law, and are sealed with the broad seal and secured by the sacred faith of the Commonwealth of Louisiana.

That the owner or vendor of the property for which these bonds were exchanged did not and could not have in this transaction any intent to aid the Confederate cause or so-called rebellion,
3 because the said property was taken as private property for public use by the said government of Louisiana, and the assent of the owner to the transfer thereof as well as the exchange of the bonds therefor were enforced against the said owner and vendor, and that therefore even if the said transaction was made and intended and the property used by the State of Louisiana to aid and further the said war or rebellion no such intent could be imputed to the said owner and vendor of the said property and transfereee of the said bonds, in the taking of which therefore the said transfereee and payee of the said bonds made a virtue of necessity.

That Louisiana as a body politic not only made these solemn contracts with the payees and holders, but declared in her constitution, in article 155 of the State and article 1, sec. 10, of the Federal, that she would not pass any law or do or allow any act impairing or tending to impair the obligations of the said contracts, and moreover required that all judicial servants and agents should be sworn not to allow any act of law impairing the said obligation to stand and have effect, all of which your petitioner and the original payee relied on in good faith, and the performance of all which obligations and duties your petitioner, for himself and principals, now confidently claims and hopes for. Plaintiff further alleges that the fifteen million

dollars limitation on the State debt has not been reached, and
4 *and* that the board of liquidation have still the power to issue and exchange the consolidated bonds provided for in said act No. 3 of 1874.

Wherefore your petitioner prays that the board of liquidation be cited to answer hereto; that it be duly decreed that the said bonds are and were legal and constitutional obligations of the State of Louisiana; were issued in strict conformity with law; were and are not in violation of the State or Federal Constitution, and were given and transferred to the original holder for a valid consideration, and that the same are entitled to be funded and exchanged for consolidated bonds of the said State in conformity with the aforesaid act No. 3 of 1874; also he prays for all orders, judgments, and decrees that justice may require, and for costs and general relief.

(Signed) B. J. SAGE, *Pro Se.*

Bernard J. Sage, being duly sworn, deposes and says that he is agent and assignee of the parties as stated, and that all the allegations of the foregoing petition are true.

(Signed) B. J. SAGE.

Sworn to and subscribed before me this 6th Ap'l, 1881.

(Signed) FRANK WALL, *D'y C'lk.*

Schedule. Filed April 6th, 1881.

5 B. J. SAGE *vs.* BOARD OF LIQUIDATION. } No. 2919. Div. E.

Of five bonds sued on in the case of B. J. Sage *vs.* The Board of Liquidation, No. —, issued under the statute of February 8, 1864, said bonds dated August 1st, 1864, payable in 25 years, viz., August 1st, 1869, with interest at six per cent., payable semi-annually. Each bond has attached to it forty-nine unpaid coupons of $30 each, the first coupon of each having been paid.

No. of bond.	Amount.	Rate of Int.	No. of coupon.	Total.
1	$1,000	6 per ct.	49	2,470
2	1,000	6 per et.	49	2,470
3	1,000	6 per ct.	49	2,470
4	1,000	6 per ct.	49	2,470
5	1,000	6 per ct.	49	2,470

Answer. Filed April 29th, 1881.

B. J. SAGE
vs.
BOARD OF LIQUIDATION. } No. 2919. Div. E.

Now comes into court the Board of Liquidation, made defendant herein, and for answer denies all and singular the allegations in plaintiff's petition contained.

6 1st. Further, def't specially denies that the bonds sued upon are valid obligations of the State of Louisiana. 2nd. Def't alleges that the parties who signed and issued said bonds were not the authorized agents of the State of Louisiana. 3rd. That said bonds were not issued for a valid consideration. 4th. That said bonds were issued in violation of the Constitution of the United States. Where- def't prays that the demand of petitioner be denied, and that suit be dismissed at plaintiff's costs.

(Signed) J. C. EGAN,
Att'y General.

Interrogatories Annexed to Commission. Filed March 13th, 1882.

B. J. SAGE
vs.
BOARD OF LIQUIDATION. } No. 2919. Cl. Dt. Ct., Div. E.

Before Judge Lazarus.

Interrogatories for James C. Wise, Monford Wells, and others, of Rapides parish, La., whose answers hereto are to be used in evidence on trial.

1. Please state your name, age, residence, and business.
2. Do you know aught of a series of bonds of the State of Louisiana, dated August 1st, 1864, with coupons attached, pur-
7 porting to have been issued under act 16 of 1864, approved February 8th of — year, each bond being for $1,000 and payable in twenty-five years, and each having six per cent. interest, payable semi-annually, all made payable to bearer and requiring for the first transfer the endorsement of "M. Wells"? If you (do?) state their history, in what transaction were they given, what was their consideration, to whom were they transferred; state all you know.
3. If you say the bonds were given by the State of Louisiana for property, what property was it; whose was it; what was the amount?
4. Were said bonds—if you say there were such—ever recognized and coupons or any of them paid by the State; if you (do?) when and by whom?
5. Please state generally and specially all you know about the subject.

(Signed) WM. F. MELLEN,
Att'y for Plaintiff.

Cross-Interrogatories Annexed to Return to Commission.

1st. Do you know how many members constituted the legislature of 1864 under the Allen government?

2nd. Do you know how many members were present when the act under which these bonds were purported to be issued was passed?

8 3d. Do you not know that there was not a quorum in the legislature at the time the act was passed?

4th. Do you not know that the members of that legislature did not take the oath required by the constitution of 1852 to support the Constitution of the United States?

5th. Were these bonds sold or exchanged?

6th. If sold, for what were they sold?

7th. If exchanged, what was given in exchange?

(8th?) —.

9th. Who was the person disposing of these bonds, where, when, and for what?

10th. What amounts were so sold or exchanged or both?

11th. Do you know where the records of sales or exchange are?

12th. Do you know where the records of the legislature of 1864 are?

13th. If sugar or other products were given for these bonds, who were the products given to, when delivered, what amount, and what was done with it?

(Signed) J. C. EGAN,
Att'y General.

MONFORD WELLS, on behalf of plaintiff, answers to first interrogatory:

Answer to 1st: My name is Montford Wells; aged eighty-one years; residence, Rapides parish, and business a planter.

9 Answer to second interrogatory. In the year 1864 agents representing Henry W. Allen, governor of the State of Louisiana, were desirous of purchasing sugar and cotton; they offered Confederate money in payment therefor. As husband and agent for Mrs. Jeannette Wells, I refused to take Confederate money.

Isaac Levy, now deceased, was the agent of Gov. Allen. He resided then in Alexandria. When I refused to take Confederate money for sugar he proposed to give me State bonds that were authorized by the act of the legislature, No. 16, of 1864. Before I would take these bonds in exchange I consulted with Judge Henry Boyce, who was United States district judge for this district, and for whose legal opinion I had great respect. Under his advice, and believing the bonds had no connection with the war and that it made no difference whether the United States or Confederate States succeeded that the bonds would be a legal and valid debt of the State of Louisiana, I agreed to make the exchange of sugar for these bonds. The exchange was made for a large number of hogsheads,

of sugar for one hundred and eighty-four bonds of one thousand dollars each, and coupons attached. The sugar was hauled from Wellswood to Laconte and put on the railroad and delivered to Isaac Levy at Alexandria. He then delivered to me the bonds. I do not now remember the number of pounds or hogsheads of sugar nor the price per pound or hogshead, it has been so long,
10 and if I kept any account of the transaction it has been mislaid or lost. The bonds were dated August 1, 1864, payable in twenty-five years, and six per cent. interest, payable semi-annually. These bonds were duly registered in the bond book of the auditor's office of the State of Louisiana, and I collected one of the coupons thereon in 1865, according to my recollection. These bonds were transferred to B. J. Sage, of New Orleans, and other parties. For convenience sake I took the bonds in my name. The property exchanged, being sugar, was raised on the plantation belonging to my wife, Jeannette Wells. These bonds were taken at their face value.

Answer to third interrogatory. This interrogatory is answered fully in my answer to interrogatory number two.

Answer to fourth interrogatory. The bonds were recognized by the auditor of public accounts and registered, as above stated, in the bond book of the State of Louisiana, and I collected the interest coupons due up to the 1st of February, 1865, amounting to five thousand five hundred and twenty dollars. I don't remember now by whom I was paid the interest, but my recollection is that I gave the coupons to Mr. A. W. Wright for collection.

Answer to fifth interrogatory. I have stated fully all I know about the bonds. It was a *bona fide* transaction all the way through, the consideration was sugar, as stated, and I believe the
11 bonds constituted a legal and valid debt of the State of Louisiana, as the same were issued by a legal State government. The bonds were delivered to me as stated by Isaac Levy, to whom and when I delivered the sugar.

Answer to first cross-interrogatory. I don't know how many members constituted the legislature under the Allen government. The legislature and the whole State officials were recognized and considered as legal and the State government a constitutional one at the time. I knew of no other State government, and none other was recognized.

Answer to second interrogatory. I do not know, but I have been informed by members of the legislature that there was a legal quorum present during the entire term of the legislature.

Answer to third cross-interrogatory. I do not know; on the contrary, from all the information I can give I believe there was.

Answer to fourth cross-interrogatory. I don't know, but I presume they did not, as they were prohibited by an act of the State in convention, and the Confederate authorities had military domination and would have punished members, perhaps.

Answer to fifth cross-interrogatory. They were exchanged.

Answer to sixth cross-interrogatory. They were not sold, but exchanged.

Answer to seventh cross-interrogatory. Sugar.

Answer to *sixth* cross-interrogatory. Isaac Levy was the
12 agent who made the transaction with me in 1864; the month not recollected, but it was in the early part of the year, in Rapides parish, and for sugar.

Answer to tenth cross-interrogatory. I have answered this interragotary in answer to second interrogatory-in-chief. I know of no other sale or exchange of bonds except those transferred to me, unless it be about forty bonds exchanged with Judge Henry Boyce for cotton. This I heard from Judge Boyce.

Answer to eleventh cross-interrogatory. I do not. I have searched for Isaac Levy's books, and have not yet found them.

Answer to twelfth cross-interrogatory. I do not. I have inquired for them, and have not been able to find them.

Answer to thirteenth cross-interrogatery. The sugar was given to Isaac Levy, the agent for Governor Allen, as I have fully answered in answer to interrogatory No. 2 in chief. The sugar was shipped to Shreveport. I understood that the same was used for the purpose of supplying women and children and indigent poor in that section of the State that had been devastated and for the support of the State government.

(Signed) MONFORD WELLS.

Sworn to and subscribed before me this 31 day of May, A. D. 1881.

(Signed) L. V. MAYRE,
Notary Public.

13 JAMES C. WISE, on behalf of the plaintiff, being duly sworn, answers as follows:

Answer to first interrogatory. My name is James C. Wise; my age, fifty-nine years; residence, Rapides parish; occupation, farmer.

Answer to second interrogatory. There was a large amount of bonds given to Gen. M. Wells in exchange for sugar; the amount I do not recollect. These bonds were issued under act of the legislature of 1864. I was a State officer during Governor Allen's administration, and was with him during the whole time in Shreveport. Governor Allen had agents in different portions of the State; one of the agents in Rapides parish was Isaac Levy, who lived at Alexandria. Isaac Levy, under the direction of Gov. Allen, made an exchange of these bonds with General Monfort Wells for sugar. There was great difficulty in buying necessary articles for the use of the State at that time in Texas, and Gov. Allen, being desirous of supplying the suffering people with provision and medicines and other necessary articles, found it necessary to obtain sugar and cotton, which he could send into Texas and exchange for these articles upon a good basis. He found it impossible to obtain this cotton and sugar with State or Confederate money, and therefore in this transaction agreed that the bonds should be exchanged for the sugar. This was done through Isaac Levy, his agent in Rapides parish.

14 Answer to third interrogatory. They were given for sugar to General Wells. It was a large amount of sugar; number of hogsheads and pounds I do not remember.

Answer to fourth interrogatory. The bonds were recognized. I do not recollect any of the coupons being paid.

Answer to fifth interrogatory: I know nothing more than I have stated, except that this was a *bona fide* transaction, and that the bonds were received at their face value.

Answer to first cross-interrogatory. I do not know.

Answer to second cross-interrogatory. I do not know.

Answer to third cross-interrogatory. I do not know of my personal knowledge, but never heard it questioned.

Answer to fourth cross-interrogatory. I do not know whether they did or not. I presume they did not.

Answer to fifth cross-interrogatory. They were exchanged for sugar.

Answer to sixth cross-interrogatory. They were not sold.

Answer to seventh cross-interrogatory. They were exchanged for sugar at their face value; they could not be disposed of for less under the act.

15 Answer to ninth cross-interrogatory. Governor Allen was the person who disposed of these bonds, through his agent, Isaac Levy, in 1864, at Shreveport, and for sugar.

Answer to tenth cross-interrogatory. The amount was large. I do no know exact amount.

Answer to eleventh cross-interrogatory. I do not know.

Answer to twelfth cross-interrogatory. I do not know.

Answer to thirteenth cross-interrogatory. This sugar was given to Isaac Levy, agent for Gov. Allen; was then shipped to Shreveport, and thence to the interior of Texas, where it was exchanged for bacon, flour, medicines, etc., for the use of the State government.

(Signed) J. C. WISE.

Sworn to and subscribed before me this 31st day of May, A. D. 1881.

[L. S.] (Signed) L. V. MAYRE,
Notary Public.

Interrogatories. *Filed March* 13, 1882.

B. J. SAGE
vs.
BOARD OF LIQUIDATION. } No. 2919. Cl. D't C't, Div. E.

16 Interrogatories to be propounded to E. W. Halsey, of Baton Rouge, and John M. Sandedge, of New Orleans, La., whose answers thereto will be offered in evidence on behalf of plaintiff on the trial of this cause.

1. Names, ages, residences, and business you will please state.
2. Interest and knowledge of parties you will also please state.
3. Please state all you know, if you know aught, of the transac-

tion alleged in the petition of the purchase by Governor H. W. Allen of sugar from Mrs. Jeannette D. Wells in 1864 or '5. State all, if anything, you know as to the amount, consideration, the law under which the purchase was made, the agent of it, etc.

4. Do you know aught of the series of bonds of the State of Louisiana dated August 1st, 1864, purported to have been issued under act No. 16 of 1864, approved Feb. 8 of that year, each being for $1,000, and payable in 25 years, and each bearing six per cent. interest, payable semi-annually, all made payable to bearer, all of which is alleged in the petition? If yea, state their history—what law they were issued under. In what transaction were these given? What was the consideration for them? To whom were they transferred? State all you know about them, if you know aught.

5. Have you been heretofore connected with the administration of the government of this State? If yea, state when,
17 how long, under whom, and in what capacity.

6. Had you any connection with the administration of Governor Henry W. Allen in 1864? If yea, state what, and the history of that administration in reference to its election, installation, regularity of accession, its completeness of organization, and the fullness of its person-al and the regularity of the performance of duty. Please state its vicissitudes and struggles for existence, if any; its financial policy; its currency; its obtainment of staples of supplies, if any; its policy as to public stores and relief of the people, if any.

7. Was the act designated as No. 16 of 1864, purporting to be approved Feb. 8, 1864, printed in the volume of acts of 1864, regularly enacted, approved, and promulgated? Is the act as printed genuine, according to its purport and tenor?

8. Are the bonds exhibited those issued under the act? Are the signatures genuine? Were the signers the official agents of the State?

9. If you state that all the offices and departments of the State government were regularly organized and carried on and were recognized by Louisiana as representing her, state if full records in each office were kept and, if you know, what became of these records. If you state they were given up, state to whom. What became of them? Answer specially as to offices and depart-
18 ments, as far as you know. If you say they were given up and taken away, state if they have been inquired and sought for since, and with what success, and where they are now.

10. State aught you know that will aid the plaintiff to get justice.

(Signed) W. F. MELLEN,
Att'y for Pl'ff.

Answer of E. W. Halsey.

Answer to Int. 1. My name is Edmund W. Halsey; age, 59 years; profession, journalist; residence, Baton Rouge; present business, private secretary to Gov. S. D. McEnery.

Answer to Int. 2. I know the plaintiff and some of the board. I have no interest in the suit.

Answer to Int. 3. Was acquainted with Gen. Monford Wells, of Rapides, the husband of Mrs. J. D. Wells; remember something of the transaction in sugar; impression at the time was that the whole would have fallen into the hands of the Federals and become a total loss; that Gen. Wells preferred to turn them over to the State as a loan, taking State bonds as evidence, &c.; find in a memorandum kept for my own use, under date of June 7, 1865, these
19 words: "Wise. Statement of Wells' sugar loaned." The transaction must have been began as far back as September, 1864, because in said memorandum book is the following:

"Sep. 24. To Gen. Wells to name agent to receive bonds." The business was done through Col. James C. Wise, now of Rapides, who was State quartermaster, appointed by Gov. Allen, or through Isaac Levy, agent of Gov. Allen. The entry first quoted probably referred to a statement of the quantity of sugar received up to that time from Gen. Wells. The sugar, or the principal part of it, was sent into Texas by order of Gov. Allen, to be exchanged for cotton for exportation or for such supplies as could be obtained there. (See entries in memorabdum book at Nov. 25 and Apr. 8.) The surrender defeated this intention in part, and much of the sugar was unlawfully taken on the road or while in store in Texas during the confusion and the relaxation of all military and civil restraint incident to the "break-up."

Answer to the 4th, 7th, and 8th Ints. I know that under act No. 16 of 1864, approved Feb. 8th, the issue of ten millions in bonds was provided for of the description contained in interrogatory 4, and that some of said bonds were issued. I believe the bonds Nos. 2, 3, 4, & 5, which I have *been*, (?) were of the series given to Gen. Wells for the sugar. Bond No. 2 I annexed hereto as genuine, all the signatures thereto being those of the persons purporting to have signed them, and they were the agents lawfully authorized to do so and bind the State. I believe that Gen. Wells
20 was paid for the sugar in question at the time in those bonds, because I find the following memorandum: "Sep. 24. "To Gen. Wells to name agent to receive bonds," referring, most probably, to a letter written to him by myself to that effect on that day. These bonds were issued under act No. 16 of the La., Gen. Wells, approved Feb. 8th, 1864, which act I know to have been duly, legally, and constitutionally passed, approved, printed, and promulgated, as contained in volume of printed acts of that year. For greater certainty I annex an exact copy of the said act No. 16 of 1864 to this answer and deposition.

(Here follows full text of said act, which is not inserted herein by request of plaintiff in error.)

Answers to Ints. 5 and 6. Was private secretary to Gov. Thomas O. Moore during his full term, beginning January, 1866, and ending Jan., 1864; also to Gov. Henry Watkins Allen from his inauguration, at Shreveport, in January, 1864, until the surrender of the trans-Mississippi military department, in May, 1865, having

leave to act as journal clerk of the house of representatives. I was cognizant of all the business transacted in the executive office except during the session of the General Assembly.

Gov. Allen and all State officers were regularly elected in
21 November, 1863, at the time and in the manner as directed by the constitution and laws of the State. Citizens of all parts of the State, not in actual possession of Federal troops, participated in the election, which was conducted and returns made in strict accordance with law. The officers elected were duly qualified by oath, and by bond, where necessary. All members of the house and several senators were elected at the same time, and a constitutional quorum of each house was found present shortly after the day fixed by the constitution. Such a quorum was present when General Allen was inaugurated as governor. I distinctly remember the care that was taken to secure a constitutional quorum whenever an important act or resolution was voted. The laws made during the sessions of 1864 and 1865 were unquestioned as to their validity and their regularity by the people, bar, or judges. The bar, the courts, the magistrates, and the people acknowledged, respected, and obeyed them equally with all other laws.

For a general statement of the action of Gov. Allen for the relief of the distresses of the people of Louisiana, I refer to "Recollections of Henry Watkins Allen," by Sarah A. Dorsey, and especially to Book X, beginning at page 223 and ending at page 306. The narrative therein presented I know to be substantially correct. Therein are related the various methods pursued by Allen to succor
the impoverished and distressed people of Louisiana. From
22 extended personal observation and from many hundred of reports, he knew that the people were in a condition of great destitution, being in want of materials for clothing, animals, proper tools, medicines, and many other articles of prime necessity. The State was cut off by blockade from the removal of supply. The shelves of merchants were bare. The stocks of 1861 were entirely exhausted before the end of 1863. All had been worn out, consumed, or exhausted in the hands of purchasers. The greatest part of all animals for work or food had been consumed by the military or carried away by the Federal invading armies. The most efficient half of the male population was in military service and unable to help the people at home. The women did not even have the means of spinning and weaving coarse cotton fabrics for their own clothing, being without cotton cards or necessary articles.

Harness and farm tools were mostly worn out. Ironware, cro-kery, and cutlery were deficient. The supplies of essential medicines and chemicals had been entirely used up and could only be replaced by the risk of bringing them through the Federal Army lines, they being declared contraband of war and rigidly excluded. The people, as a rule, were destitute of money that could be used in buying these articles, the paper sent, or money of the Confederate State Government, having so depreciated as to be almost without purchasing power within Confederate lines and entirely without it else-

where. When Governor Allen set about relieving the dis-
23 tress he found his only means to be the exportation of cotton, sugar, and tobacco in getting the needed articles in exchange. He acquired the products by giving the owners permission to export an assigned quantity, upon condition of exporting a certain proportion thereof for the use and benefit of the State. Only a small proportion of the cotton, sugar, and tobacco was bought from the planters and merchants for Confederate or State paper money, which they could not use and therefore did not want. The cotton, etc., covered by State "permits," was chiefly sent by wagon trains destined for Matamoras, Mexico, the said trains to return laden with imported supplies. I was a witness to many contracts for those exporting cotton on "shares" and under permits granted by Gov. Allen, but my recollection of the details is indistinct. The records of these transactions, with all other State archives, were turned over in due form to the Federal authorities about the 1st June, 1865. (See page 304, "Recollections;" the transaction in cotton, sugar, and tobacco described on page 305 of the same.)

Answers to Ints. 9 and 10. All the effects and departments of the government were regularly organized and carried on and records duly kept; at the surrender the said records were given up to the Federal authorities, and, though inquired and sought for
24 since, they have not been found, so far as I know, except as to some judicial records.

(Signed) E. W. HALSEY.

Sworn to and subscribed before me this Apr. 12th, A. D. 1882.

[L. S.] (Signed) W. H. GOODALE,
Notary Public.

Certificates of Auditor Jumel. Filed May 15th, 1882.

(Extract from receipt ledger of 1860 to 1864.)

B. J. SAGE
vs.
BOARD OF LIQUIDATION. } No. 2919. Div. E.

STATE OF LOUISIANA, AUDITOR'S OFFICE,
NEW ORLEANS, *June* 11, '81.

I hereby certify the following to be a true and correct extract from the receipt ledger of 1860, 1861, 1862, 1863, & 1864:

Feb. 2, 1865.

Order No. 16 to Montford Wells for purchase 184 6 per cent. bonds of $1,000 each, each issued under act No. 16 of 1864.

(Signed) ALLEN JUMEL, *Auditor.*

STATE OF LOUISIANA, AUDITOR'S OFFICE,
25 NEW ORLEANS, *June* 11, '81.

I hereby certify the following to be a true and correct extract from the journal of expenditures from 1863 to 1865:

Feb. 2, 1865.

Interest on bonds issued under act No. 16 of 1864, warrant No. 100, to Montford Wells, per H. M. Wright, in payment of 184 coupons of interest, of $30 each, 1st February, 1865, on State bonds issued under act No. 16 of 1864, $5,520.

(Signed) ALLEN JUMEL, *Auditor.*

STATE OF LOUISIANA, AUDITOR'S OFFICE,
NEW ORLEANS, *June* 11, '81.

I hereby certify the following to be a true copy and correct extract from the appropriation book from 1862 to 1865:

Feb., 1865.

No. 100 warrant, Montford Wells, per H. M. Wright, in payment of 184 coupons of interest of $30 each, due 1st February, 1865, on State bonds issued under act No. 16 of 1864, $5,520.

(Signed) ALLEN JUMEL, *Auditor.*

STATE OF LOUISIANA, AUDITOR'S OFFICE,
NEW ORLEANS, *June* 11, '81.

26 I hereby certify the following to be a true and correct extract from the minutes of the board of liquidation of May 13, 1880:

The application of Mr. B. J. Sage for the funding of 5 bonds of $1,000 each, having six per cent interest, issued under act of the legislature of Louisiana, approved February 8th, 1864, entitled An act to authorize the sale of bonds for the relief of the treasury and final liquidation thereof, Nos. 1 to 5, and coupons of interest amounting to $2,675, being under consideration, Mr. Jumel moved that it be rejected. Carried.

(Signed) ALLEN JUMEL, *Auditor.*

Testimony. Filed June 28th, 1882.

B. J. SAGE
vs.
BOARD OF LIQUIDATION. } No. 2919. Div. E.

Testimony taken in open court Monday, May 15th, 1882.

Appearances: W. F. Mellen, Esq., for plaintiff; J. C. Egan, Esq., for defendant.

Mr. W. F. Mellen, of counsel for plaintiff, offers in evidence the five bonds sued on; also the certificate of the board of liquidation, showing that they were offered for funding and were re-
27 jected; also offers in evidence the act of the State of Louisiana of 1864.

By Mr. EGAN: I have no objection to this going in as *rem ipsam*, but I object to its going in as law at all.

And it was here agreed that the printed volume can be used here and in the supreme court without necessity of copying.

By Mr. W. F. MELLEN: I next offer in evidence the testimony

of James C. Wise and others, taken in Rapides parish, Louisiana; also the deposition of E. W. Halsey, with the exhibits annexed thereto, taken before Wilmot A. Goodale, notary public in the city of Baton Rouge, State of La.; also the certificate of Allen Jumel, State auditor, dated June 11th, 1881, showing extracts from the journal of expenditures from 1863 to 1865; also certificate of Allen Jumel, auditor, showing extracts from the appropriation book from 1862 to 1865; also a similar certificate showing extracts from the receipt ledger of 1860, 1861, 1862, 1863, 1864; and it was also agreed that the original bonds may be used in the supreme court instead of having them copied in the transcript.

B. J. SAGE, sworn in his own behalf, says:

By Mr. MELLEN:

Q. Mr. Sage, will you please state whether you know and
28 if you know anything about the number of bonds that were ordered issued under this act, No. 16 of 1864.

By Mr. EGAN: I object as totally irrelevant.

And the objection was sustained.

By Mr. MELLEN:

Q. Mr. Sage, are there any other matters that you wish to testify to in regard to this case?
A. No, sir.

28a *Submission.*

Extract from Minutes.

Present: Hon. Henry L. Lazarus, judge.

SATURDAY, *July 1st*, 1882.

B. J. SAGE
vs.
BOARD OF LIQUIDATION. } No. 2919. Div. E.

This case continued to this day for briefs, the same being filed and the case being submitted, this court took the same under advisement.

(NOTE.—This should have been copied after "testimony" and was left out by inadvertence. In testimony whereof the seal of this court is hereto affixed.)

[Seal of the Supreme Court of the State of Louisiana.]

Notice of Trial Served on M. J. Cunningham.

Served on M. J. Cunningham.

STATE OF LOUISIANA:

Civil District Court for the Parish of Orleans.

B. J. SAGE
vs.
BOARD OF LIQUIDATION. } No. 2919. Div. E.

To Hon. M. J. Cunningham, attorney general, New Orleans.

SIR: Please take notice that the above-entitled cause has been specially fixed for trial for Thursday, 5th day of June, 1884.

New Orleans, May 27th, 1884.

(Signed) EUG. D'HERETE, *D'y Clerk.*

29 *Sheriff's Return on Notice. Filed May 27th*, 1884.

And on the 28th day of May, 1884, I served a copy of the within notice of trial on M. J. Cunningham, attorney general of the State of Louisiana, herein named, through W. B. Sommerville, his chief clerk, in person, at the office of said attorney general, he being absent from his office at the time of said service.

Returned same day.

(Signed) J. E. SIEKFORT,
Deputy Sheriff.

Submission.

Extract from Minutes.

WEDNESDAY, *November 12th*, 1884.

Present: Hon. Henry L. Lazarus, judge.

B. J. SAGE
vs.
BOARD OF LIQUIDATION. } No. 2919. Div. E.

This case was this day, by consent of counsel, submitted on the pleadings, evidence, and briefs on file, and the court took the same under advisement.

30 *Submission.*

Extract from the Minutes.

WEDNESDAY, *November 12th*, 1884.

Present: Hon. Henry L. Lazarus, judge.

B. J. SAGE
vs.
BOARD OF LIQUIDATION. } No. 2919. Div. E.

This case was this day, by consent of counsel, submitted on the

pleadings, evidence, and briefs on file, and the court took the same under advisement.

Judgment.

Civil District Court for the Parish of Orleans.

B. J. SAGE
vs.
BOARD OF LIQUIDATION. } No. 2919. Div. E.

In the cause submitted for adjudication, for the reasons orally assigned by the court and reduced to writing by the clerk, and the law and the evidence being in favor of defendant—

It is ordered, adjudged, and decreed that there be judgment in favor of said defendant, rejecting plaintiff's demand, with costs. Judgment rendered February 10, 1885; judgment signed February 16, 1885.

(Signed) HENRY L. LAZARUS, *Judge.*

31 *Clerk's Certificate.*

Certificate.

STATE OF LOUISIANA,
Civil District Court for the Parish of Orleans. }

I, W. J. McGeehan, clerk of the civil district court for the parish of Orleans, do hereby certify that the foregoing fifty-four pages do contain a true, correct, and complete transcript of all the proceedings had, documents filed, testimony, and evidence adduced upon the trial of the cause wherein B. J. Sage is plaintiff and Board of Liquidation is defendant, instituted in this court and now in the records thereof under No. 2919 of the docket thereof, except five bonds under act of the State of Louisiana, which go up in original.

In testimony whereof I have set my hand and affixed the impress of the seal of said court, at the city of New Orleans, on this sixteenth day of March, in the year of our Lord one thousand eight hundred and eighty-five, and in the one hundred and ninth year of the Independence of the United States of America.

[SEAL.] (Signed) W. J. McGEEHAN, *Clerk.*

32 *Proceedings in Supreme Court (Extract).*

Opinion of court. Filed April 27, 1885.

B. J. SAGE
vs.
BOARD OF LIQUIDATION. } No. 9426.

Appeal from the civil district court for the parish of Orleans.

Mr. Justice TODD pronounced the opinion and decree of the court in the words and figures following, to wit:

This is a suit for the funding and exchange of five bonds of $1,000

each, dated August 1st, 1864, payable in twenty-five years from their date and having six per cent. interest, payable semi-annually.

These bonds were issued under the authority of act 16 of 1864, entitled "An act to authorize the sale of bonds for the relief of the treasury and final liquidation of the principal and interest thereof." Among its provisions are the following:

SECTION 1. That the governor be, and he is hereby, authorized to cause to be engraved or printed bonds to an amount of ten millions of dollars.

SECTION 4. That said bonds shall be sold by the governor for the benefit of the State or shall be exchanged for any of the treasury notes, Confederate or State, but shall not be sold or exchanged for less than par nor in greater amounts than the exigencies of the treasury may require.

SECTION 5. That so fast as the governor shall sell or exchange the bonds and receive money, Confederate or State treasury notes, therefor he shall cause to be cancelled an equal amount of State treasury notes then in the treasury equal to the amount realized for the sale or exchange of the said bonds, and shall cause the proper en-
33 tries to be made in the treasurer's and auditor's books.

These bonds were first delivered to General Montfort Wells, the husband and agent of Mrs. J. D. Wells, a short time after their date, and were subsequently assigned to the plaintiff herein.

The petition alleges substantially that the bonds are legal and valid obligations of the State; that they were issued in strict conformity to law; that the original holder acquired them for a valuable consideration; that they were not issued in violation of the State or Federal constitutions, and are in proper form; and, in short, that they come within all the conditions entitling them to be funded and exchanged for consolidated bonds, as provided by act 3 of 1874.

The answer of the defendant board is a general denial, also special denials, which together fully put at issue the validity of the bonds and the right of the holder to have them funded as representing a valid debt of the State.

There are several interesting questions discussed by the able counsel of the parties litigant, such, for instance, as relates to the power of the State, at the time a member of a confederacy, at war with the United States, to issue the bonds, whether the bonds were issued for purposes hostile to the Government of the United States or to aid in the prosecution of the war against its authority, and whether the act under which they were issued was violative
34 of the State and Federal constitutions. These and like grave questions we find it unnecessary to determine.

The second section of the act above quoted imperatively required that the bonds in question should be sold by the governor for the benefit of the State or exchanged for treasury notes, State or Confederate.

It is plain that the governor, as the chief executive officer of the State, had no power whatever to deal with those bonds or to dispose of them except in the precise manner and for the distinct purpose

pointed out by the law, and that any act of his in controvention of the law in this regard would be void and could not confer on any person or holder of the bonds the right to recover on them or enforce their liquidation or payment.

This proposition we do not understand to be controverted by the plaintiff, but virtually admitted as correct by his contention that the bonds were sold by the governor in compliance with the terms of the act.

Were they thus sold or exchanged for the currency named as required by the act?

It is certain that a large quantity of sugar was procured for the use of the State government by the means of these bonds, to be applied to the relief of the people of the State. How was it procured? The plaintiff in his petition alleges substantially that it was procured by an exchange of the bonds therefor. He
35 produces three witnesses—Gen. Montfort Wells, to whom the bonds were delivered and from whom the sugar was obtained; E. W. Halsey, the private secretary of Gov. Allen, and James C. Wise, the then State quartermaster—who were intimately acquainted with the entire business connected with the transaction. They all concur in the fact that the sugar was obtained in exchange for the bonds.

We quote from the testimony of Gen. Wells on this point:

"In the year 1864 agents representing Henry W. Allen, governor of the State of Louisiana, were desirous of purchasing sugar and cotton. They offered Confederate money in payment therefor. As husband and agent of Mrs. Jeannette Wells, I refused to take Confederate money. When I refused to take Confederate money for sugar he proposed to give me State bonds that were authorized by the act of the legislature, No. 16 of 1864. I agreed to make the exchange of sugar for these bonds. The sugar was delivered to Isaac Levy at Alexandria. He then delivered to me the bonds. I took the bonds in my name. The property exchanged, being sugar, was raised on the plantation belinging to my wife."

Against his own judicial admissions that the bonds were thus exchanged and the positive testimony of his own witnesses to the same effect the plaintiff invokes the legal presumption that the officer charged by law with the sale of these bonds discharged
36 his duty, and therefore the bonds were sold and not exchanged. He further cites for the same purpose and as confirmatory of his presumption an entry in the "receipt ledger" of the State auditor's office of 1860 to 1864, as follows:

"FEBRUARY 2, 1865.

"Order No. 16 to Montfort Wells for purchase of 184 six per cent. bonds of $1,000 each, issued under act No. 16 of 1864."

Also another entry in same book showing the payment at the same time of the semi-annual interest on the bonds.

Waiving the question if the plaintiff could thus break down and destroy the effect of his own judicial admissions and the testimony

of his own witnesses confirming them even under an allegation of error, it is enough to say that he has not succeeded in doing so.

The presumption in favor of the acts of an officer done within the scope of his authority is not a conclusive presumption; it prevails only till the contrary be shown. This is elementary, and authorities need not be cited in support of it.

Here the contrary proof is overwhelming, being the testimony of the party to the alleged sale of the bonds and of one or more who were charged or acted in the matter in their negotiations; nor can the entries referred to be regarded as conclusive in the face of
37 this proof. As to the first entry the officer making it may have used the word "purchase" in ignorance or disregard of the technical difference of a sale and an exchange. One unacquainted with the legal distinction between these two kinds of contracts may have thought that the sugar acquired by exchange of the bonds was purchased by the bonds.

The inference from the entry that there was a sale rests alone on the word "purchase" therein, and really amounts to nothing against the testimony of the alleged purchaser, showing conclusively that he did not purchase but exchanged the property for the bonds, fully supported as is his testimony by that of other witnesses thoroughly cognizant of the fact.

Besides we cannot possibly believe from the evidence that Wells, to whom the bonds were delivered, first paid Confederate money or State notes for the bonds and then returned the money or notes and delivered the sugar in lieu thereof.

Nor does the payment of interest on the bonds strengthen the plaintiff's right or title thereto. If they were acquired by the first holder in contravention of law a subsequent recognition of the holder's right thereto by any of the executive officers of the State government to be inferred from a payment on the bonds, could not cure the radical defect of title nor bind the State or its officers in any department of its government. For these reasons the judgment of the lower court is affirmed with costs.

38 *Petition for Rehearing. Filed May 5th*, 1885.

B. J. SAGE
vs.
THE BOARD OF LIQUIDATION. } No. 9426.

The plaintiff, respectfully suggesting error in the judgment rendered by this court on April 27th, 1885, asks for a rehearing and a reversal or at least a modification of the decision on the grounds stated and argued in the printed document accompanying and filed with this petition.

Rehearing Refused.

Extract from the Minutes of Friday, May 29th, 1885.

Court was duly opened pursuant to adjournment.
Present: Their honors Edward Bermudez, chief justice; Felix P.

Poche, Robert B. Todd, Thomas C. Manning, Charles E. Fenner, associate justices.

His honor Chief Justice Bermudez pronounced the opinion and judgment of the court in the following case: B. J. Sage *vs.* Board of Liquidation. For the reasons stated and read in the opinion the application for rehearing in this case is refused.

39 *Opinion on Rehearing. Filed May 29th*, 1885.

B. J. SAGE
vs.
BOARD OF LIQUIDATION. } No. 9426.

Mr. Chief Justice BERMUDEZ pronounced the opinion and decree of the court in the words and figures following, to wit:

On application for rehearing.

The judgment rendered, both below and here, simply declares that bonds issued under act 16 of 1865, and which were not sold or exchanged for Confederate or State treasury notes, but were given for State necessities, are not fundable under act 3 of 1874.

The plaintiff, in his application for a rehearing, expresses an apprehension that it may be claimed that this judgment adjudicates adversely to any right which he may have to recover payment for the sugar sold to or used by the State.

The judgment passes on no such question, which was not and could not be presented.

We find no error in that judgment.

Rehearing refused.

40 *Petition for Writ of Error. Filed March 22d*, 1887.

B. J. SAGE
vs.
BOARD OF LIQUIDATION. } No. 9426. Supreme Court of Louis'na.

To the hon. the chief justice of the supreme court of Louisiana:

The petition of B. J. Sage, the plaintiff herein, a citizen of Louisiana, respectfully represents—

That he is aggrieved and injured by the final judgment which this court has rendered in the above-entitled case, numbered 9426 of the docket of this court, and that the said judgment is final and irrevocable and erroneous, to his prejudice and injury, for the reasons following, and that therefore he desires to procure a writ of error to remove said judgment to the Supreme Court of the United States, which has jurisdiction of the amount in dispute, viz., twelve thousand three hundred and fifty dollars, for such proceedings and judgment as the law, the Constitution, and equity require.

That in this decision are drawn in question the rights, privileges, and immunities claimed under the Constitution of the United States, especially article 1, sec. 10, and amendments V and XIV, and that

the said decision is against the rights, privileges, and immunities specially set up and pleaded herein, under and by virtue of
41 said Constitution, and impairs or nullifies the obligation of plaintiff's contracts with the State set forth in this case.

That by the aforesaid judgment your petitioner is deprived of the benefit of the remedial and other laws which became *of* a part of his contracts, especially act 3 of 1874 and act 11 of 1875, and the settlement and payment of his contracts to which he was entitled under them, the said judgment, therefore, calling in question and preventing the protection to his rights given to your petitioner by article 1, sec. 10, of the Federal Constitution, and thereby impairing the obligation of his contracts.

That the said judgment assumes a jurisdiction under the aforesaid laws of 1874 and 1875 which is unconstitutional and unwarranted in adjudging the invalidity and nullity of the bonds and their issuance without any plea or evidence of fraud or error, and thereby divesting your petitioner of his vested rights without compensation and depriving him of his property without due process of law, contrary to the letter and spirit of the Federal Constitution, especially of article 1, sec. 10, and amendments V and XIV.

Wherefore your petitioner prays that the writ of error to the supreme court of Louisiana asked for be allowed, returnable to the Supreme Court of the United States on the first day of the next term, viz., the second Monday of October, 1887, upon peti-
42 tioner's furnishing bond, with good and sufficient security, for —, conditioned as the law directs; that the said defendant be cited to answer this writ, and for costs and general relief.

Respectfully,

(Signed) B. J. SAGE.

Writ allowed; bond, five hundred dollars.
N. O., March 22d, 1887.

(Signed) E. BERMUDEZ,
Chief Justice.

I acknowledge service of petition and writ of error.

(Signed) M. J. CUNNINGHAM,
Attorney General of La.

Bond. Filed April 7th, 1887.

Know all men by these presents that Bernard J. Sage, of New Orleans, La., as principal, and William F. Mellen, as surety, are held and firmly bound unto George W. Dupre, clerk of the supreme court of Louisiana, in the full and just sum of five hundred dollars, to be paid to the said George W. Dupre or to his certain attorney, executors, administrators, or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors, administrators, jointly and severally, by these presents.

43 Sealed with our seals and dated this — day of April, in the year of our Lord one thousand eight hundred and eighty-seven.

Whereas lately, at a term of the supreme court of the State of Louisiana, in a suit depending in said supreme court, wherein Bernard J. Sage is plaintiff and The Board of Liquidation of the State of Louisiana is defendant, judgment was rendered against the said plaintiff and in favor of the said defendant, and the said Bernard J. Sage, plaintiff, having obtained a writ of error and filed a copy thereof in the clerk's office of the said supreme court to reverse the judgment in the aforesaid suit, and the attorney general of Louisiana accepting service and waiving citation to be and appear in the Supreme Court of the United States to be holden at Washington the second Monday of October next:

Now, the condition of the above obligation is such that if the said Bernard J. Sage, plaintiff, shall prosecute his writ to effect and answer all damages and costs if he fail to make his plea good, then the above obligation to be void; else to remain in full force and virtue.

B. J. SAGE. [L. S.]
W. F. MELLEN. [L. S.]

Sealed and delivered in the presence of—
—— ——.

44 UNITED STATES OF AMERICA, } ss:
State of Louisiana, }

Personally appeared William F. Mellen, who, being duly sworn, deposes and says that he is the surety on the within bond; that he resides in the city of New Orleans, La., and is worth the full sum of five hundred dollars over and above all his debts and liabilities and property exempt from execution.

(Signed) W. F. MELLEN.

Sworn to and subscribed before me this 7th day of April, 1887.
[SEAL.] (Signed) J. G. EUSTIS, *Not. Pub.*

Approved.
E. BERMUDEZ,
Chief Justice Supreme Court of La.

44*a* *Amended Bond for Writ of Error. Filed Sept. 29th,* 1887.

Know all men by these presents that Bernard J. Sage, of New Orleans, La., as principal, and William F. Mellen, of the same city, as surety, are held and firmly bound unto the Board of Liquidation of the State of Louisiana in the full and just sum of five hundred dollars, to be paid to the said Board of Liquidation or to its certain attorney, executors, administrators, or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors, administrators, jointly and severally, by these presents.

Sealed with our seals and dated on this 29th of September, in the year of our Lord one thousand eight hundred and eighty-seven.

Whereas lately, at a term of the supreme court of the State of

Louisiana, in a suit depending in said supreme court, wherein B. J. Sage is plaintiff and The Board of Liquidation of said State is defendant, judgment was rendered against the said plaintiff and in favor of the said defendant, and the said Bernard J. Sage, plaintiff, having obtained a writ of error and filed a copy thereof in the clerk's office of said supreme court to reverse the judgment in the aforesaid suit, and the attorney general of Louisiana, in behalf of the said Board of Liquidation, accepting service and waiving citation to be and appear at *at* the Supreme Court of the United States to be holden at Washington the second Monday of October next:

44*b* Now, the condition of the above obligation is such that if said Bernard J. Sage, plaintiff, shall prosecute his writ to effect and answer all damages and costs if he fails to make his plea good, then the above obligation to be void; else to remain in full force and virtue.

(The word "citation" interlined and recognized by the subscribers before signing.)

(Signed) B. J. SAGE. [L. S.]
" W. F. MELLEN. [L. S.]

Sealed and delivered in the presence of—

——— ———.

Approved.
E. BERMUDEZ,
Chief Justice Supreme Court of Louisiana.

UNITED STATES OF AMERICA, }
State of Louisiana, } *ss:*

Personally appeared William F. Mellen, Esq., who, being duly sworn, deposes and sayd that he is the surety on the within bond; that he resides in the city of New Orleans, La., and is worth the full sum of five hundred dollars over and above all his debts and liabilities and property exempt from execution.

(Signed) W. F. MELLEN.

[SEAL.] Sworn to and subscribed before me this 29th day of Sept., 1887.

[Seal Supreme Court of the State of Louisiana.]

(Signed) J. G. EUSTIS, *Not. Pub.*

45 *Agreement of Counsel. Filed September* 10, 1887.

B. J. SAGE
vs.
BOARD OF LIQUIDATION. } No. 9426.

It is agreed by counsel that one of the five bonds in suit, with one coupon, shall be copied and sent up to the Supreme Court in the

record, and that the other four bonds shall be withdrawn by the plaintiff on receipt.

(Signed) B. J. SAGE.
" M. J. CUNNINGHAM,
Att'y Gen'l of La.

Bond No. 1.

CONFEDERATE STATES OF AMERICA, *State of Louisiana.*

No. 1. $1,000.

Know all men by these presents that the State of Louisiana acknowledges to be indebted in the sum of one thousand dollars, which sum the said State of Louisiana promises to pay to the bearer hereof in twenty-five years from the date hereof, and also to pay an interest at the rate of six per cent. per annum, payable semi-annually, from the date hereof, at the office of the treas-
46 urer of the State of Louisiana, upon the delivery of the interest warrants in the margin hereof, until the payment of said principal sum. This bond is issued by virtue of an act of the legislature of said State entitled "An act to authorize the sale of bonds for the relief of the treasury and final liquidation of the principal and interest thereof," approved February 8th, 1864.

In testimony whereof the governor of the State of Louisi-
[SEAL.] ana has signed these presents and the secretary of state has countersigned the same, and the seal of the State is hereunto affixed.

Done at Shreveport the first day of August, in the year of our Lord one thousand eight hundred and sixty-four.

(Signed) HENRY W. ALLEN, *Governor.*
" J. H. HARDY,
Ass't Secretary of State.

Coupon No. Two.

$30. THE STATE OF LOUISIANA. $30.

State bond No. 1 for $1,000.

Interest warrant for thirty dollars, payable at the office of the treasurer of the State of Louisiana August 1st, 1865.

No. 2.

(Signed) B. L. D., *Treas'r.*

Endorsement on bond: Auditor's office, Shreveport, February 11th, 1863. This bond is the property of M. Wells, and is transferable only upon his endorsement hereon. (Signed) H. Peralta, State auditor.

(Endorsed:) M. Wells, per pro. B. J. Sage.

47 (NOTE.—The other forty-eight coupons, coupon No. 1 being alleged to have been paid, are left out, according to agreement of counsel on page 45.)

48 *Certificate of Clerk.*

UNITED STATES OF AMERICA,
State of Louisiana.

Supreme Court of the State of Louisiana.

I, George W. Dupre, clerk of the supreme court of the State of Louisiana, holding sessions at the city of New Orleans, do hereby certify the foregoing forty-six pages, and also the pages numbered 44*a* and 44*b*, contain a full, true, and complete copy of the transcript of the proceedings had in the civil district court for the parish of Orleans in a certain suit, wherein B. J. Sage was plaintiff and The Board of Liquidation of the State of Louisiana was defendant, which appeal is now on the files of this court under No. 9426, with the exception of the following documents, omitted by direction of plaintiff:

Document.	Page.
Commission	7
Order fixing case for trial	8
Rule to read deposition rule absolute	9, 10
Consent for commission	11
Return of commission	14, 15
Certificate of notary	24
Notice to cross-int. & return	28, 29
Commission and return	29–31
Act No. 16 of 1864	33–37
Certificate of notary	42
Motion	50
Motion of appeal and appeal bond	52–54

and also a correct transcript of the proceedings had in this court on the appeal taken by the said B. J. Sage.

Seal Supreme Court of the State of Louisiana.

In testimony whereof I have hereunto set my hand and affixed the seal of this hon. court, at the city of New Orleans, this 16th day of September, A. D. 1887, and in the 111th year of the Independence of the United States of America.

GEORGE W. DUPRE, *Clerk.*

49 UNITED STATES OF AMERICA,
State of Louisiana.

Supreme Court of the State of Louisiana.

I, Edward Bermudez, chief justice of the supreme court of the State of La., hereby certify that George W. Dupre is clerk of the supreme court of the State of Louisiana, holding sessions in the city of New Orleans; that the signature of George W. Dupre to the within certificate is in the true handwriting of him, the said clerk, and that full faith and credit are due to all his official acts as such.

(Twelve words erased, null, approved.—E. B.)

In testimony whereof I have hereunto set my hand and affixed the seal of this honorable court, in the city of New Orleans, this — day of September, in the year of our Lord 1887, and in the 111th year of the Independence of the United States of America.

Seal Supreme Court of the State of Louisiana.

E. BERMUDEZ,
Chief Justice.

50 THE UNITED STATES OF AMERICA:

Supreme Court of the State of Louisiana.

The President of the United States to the Board of Liquidation of the State of Louisiana, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the city of Washington on the second Monday of October next, pursuant to a writ of error filed in the clerk's office of the supreme court of the State of Louisiana, wherein Bernard J. Sage, of New Orleans, is the plaintiff and The Board of Liquidation of the State of Louisiana is defendant, to show cause, if any there be, why the judgment rendered against the said Bernard J. Sage, plaintiff, as in said writ of error mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable Morrison R. Waite, Chief Justice of the Supreme Court of the United States, this 30th day of September, in the year of our Lord one thousand eight hundred and eighty-seven.

Seal Supreme Court of the State of Louisiana.

E. BERMUDEZ,
Chief Justice of the Supreme Court of the State of Louisiana.

51 [Endorsed:] Supreme court of the State of Louisiana. No. 9426. B. J. Sage *vs.* Board of Liquidation. Citation for service. Marshal's return.

[Endorsed:] Sup. Court U. S. 1887, Oct'r term. No. 1211. B. J. Sage, pl'ff in error, *vs.* The Board of Liquidation of Louisiana. Citation.

[Stamped:] Office Supreme Court U. S. Filed Feb. 10, 1888. James H. McKenney, clerk.

Service of the within citation is hereby acknowledged to have been made upon me at New Orleans, La., on this 3d day of October, 1887.

M. J. CUNNINGHAM,
Att'y Gen'l of La.

52 UNITED STATES OF AMERICA, ss:

The President of the United States of America to the honorable the judges of the supreme court of the State of Louisiana, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said court, before you or some of you, being the highest court of law or equity of the said State in which a decision could be had in the said suit between B. J. Sage and The Board of Liquidation, wherein was drawn in question the validity of a treaty or statute of or an authority exercised under the United States and the decision was against their validity, or wherein was drawn in question the validity of a statute of or an authority exercised under said State on the ground of their being repugnant to the Constitution, treaties, or laws of the United States and the decision was in favor of such their validity, or wherein was drawn in question the construction of a clause of the Con-
53 stitution or of a treaty or statute of or commission held under the United States and the decision was against, the title, right, privilege, or exemption specially set up or claimed under such clause of the said Constitution, treaty, statute, or commission, a manifest error hath happened, to the great damage of the said B. J. Sage, as by his complaint appears, we, being willing that error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the second Monday of October next, in the said Supreme Court to be then and there held, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Morrison R. Waite, Chief Justice of the said Supreme Court, the 23 day of March, in the year of our Lord one thousand eight hundred and eighty-seven.

[Seal U. S. Circuit Court for the 5th Circuit & Eastern District of La.]

E. R. HUNT,
Clerk of the Circuit Court of the United States for the Eastern District of Louisiana.

Allowed by—
E. BERMUDEZ,
Chief Justice Supreme Court of Louisiana.

54 [Endorsed:] No. 9426. B. J. Sage *versus* The Board of Liquidation. Writ of error. Supreme court of Louisiana. Filed Apr. 7, 1887. George W. Dupre, clerk.

Endorsed on cover: Case No. 12,788. Louisiana supreme court. No. 21. B. J. Sage, plaintiff in error, *vs.* The Board of Liquidation of the State of Louisiana. Filed October 13, 1887.